

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-1117.M5

MDR Tracking Number: M5-04-3965-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 7-20-04.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 7-20-04, therefore the following date(s) of service are not timely and are not eligible for this review: 7-18-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises/activities, joint mobilization, level II office visits, neuromuscular reeducation, and manual therapy technique from 7-21-03 through 8-13-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 13th day of September 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 7-21-03 through 8-13-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 9th day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

September 8, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

Patient:
TWCC #:
MDR Tracking #: M5-04-3965-01
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The documentation provided states the patient is a well-nourished 39-year-old woman who was injured at her job on ___ when she was picking up a case of apples and noticed an acute onset of low back pain. The records reflect the patient initially sought care with Dr. G who prescribed medications and physical therapy for the patient's low back complaints. The patient then changed treating doctors to Dr. M, who prescribed passive and active care for her work-related injury. Treatment SOAP notes for the dates in question were provided for review.

An MRI of this patient's lumbar spine that was done on 08/14/04 revealed multilevel disc degenerative changes, small disc protrusions, and degenerative changes within the facet joints all through the levels L1-S1. A designated doctor examination on 10/16/03 stated the patient was not at MMI. The patient also underwent a series of lumbar epidural steroid injections. The records also display the patient did undergo a second designated doctor examination on 05/20/04 that found the patient was not at MMI and the patient had received appropriate care.

DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic exercises, therapeutic activities, joint mobilization, level II office visits, neuromuscular reeducation and manual therapy technique for the dates 07/21/03 – 08/13/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The treatment notes reviewed display subjective improvements noted from the SOAP notes. The designated doctor evaluation by Dr. L also was taken into account that stated the treatment provided by Dr. M had been appropriate.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,